REMARKS

Claims 1-16 are now pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

Information Disclosure Statement

The Office Action asserts that the information disclosure statement filed March 16, 2006 fails to comply with 37 CFR 1.98(a)(2). Applicant will submit an information disclosure statement enclosing the documents cited on the international search report in due course.

Claim Objections

Claim 6 stands objected to as containing typographical errors. Claim 6 is cancelled. Accordingly, this objection is moot. Note, however, that the Examiner's concerns were addressed in the amendment to claim 2.

REJECTION UNDER 35 U.S.C. § 112

Claims 2-10 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention. This rejection is respectfully traversed. Notwithstanding Applicant's traverse, certain amendments are made.

Regarding claims 2-7, Applicant amends the claims to recite that the percentages are "by weight". Support for this amendment can be found at least at page 14, lines 7-8 of Applicant's specification.

Regarding claim 8, Applicant amends the claim language as suggested by the Examiner.

Regarding claim 9, Applicant submits that the claim is definite since an "injection powder" is well known by those of ordinary skill in the art. More particularly, an injection powder, also known as a "powder for injection" or an "injectable powder", is a formulation for Traditional Chinese Medicines (TCM), in the form of a powder, made from the extract of the TCM materials via lyophilization and may be reconstituted with suitable buffer solutions prior to use. The term is well known and clear to persons skilled in the art.

Regarding claim 10, Applicant amends the claim language to recite the positive steps of the claimed method.

In view of the foregoing, reconsideration and withdrawal of the above rejections are respectfully requested.

REJECTION UNDER 35 U.S.C. § 101

Claim 10 stands rejected under 35 U.S.C. § 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. § 101. This rejection is respectfully traversed. As stated above, Applicant amends claim 10 to recite the positive steps of the claimed method.

Accordingly, reconsideration and withdrawal of the above rejections are respectfully requested.

REJECTION UNDER 35 U.S.C. § 102

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Guo et al. (CN 1375316). This rejection is respectfully traversed. Notwithstanding Applicant's traverse and solely in the interest of expediting prosecution, claim 1 is cancelled. Accordingly, this rejection is moot.

REJECTION UNDER 35 U.S.C. § 103

Claims 1-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Guo et al. (CN 1375316). This rejection is respectfully traversed. Notwithstanding Applicant's traverse, Applicant amends claim 2 to recite the subject matter previously pending in claims 1 and 6. Claims 1 and 6 are cancelled.

Amended claim 2 calls for a Pharmaceutical composition comprising: 5.0% – 70.0% by weight Radix Salviae Miltiorrhizae extract; 10.0% – 85.0% by weight Radix Notoginseng extract; 5.0% – 70.0% by weight Radix Astragali extract; and 1.0% – 15.0% by weight Borneol or oil of Lignum Dalbergiae Odoriferae, wherein said Radix Salviae Miltiorrhizae extract comprises 45% - 70% by weight salvianolic acid B, 2% - 10% by weight salvianolic acid E, 4% - 20% by weight rosmarinic acid, 1% - 10% by weight lithospermic acid, and more than 70% by weight salvinolic acids; said Radix Notoginseng extract comprises 2% - 10% by weight notoginsenoside R1, 2% - 6% by weight ginsenoside Re, 15% - 40% by weight ginsenoside Rg1, 15% - 40% by weight

ginsenoside Rb1, 5% - 12% by weight ginsenoside Rd, and more than 70% by weight radix notoginseng saponins; and said Radix Astragali extract comprises 5% - 15% by weight astragaloside I and more than 70% by weight Radix Astragali saponins.

As noted by the Examiner, Guo et al. (CN 1375316) discloses a TCM composition. The disclosed composition comprises 22.2~66.8 wt% of Radix Astragali, 11.6~33.4 wt% of Radix Salviae Miltiorrhizae, 2.5~13.5 wt% of Radix Notoginseng and 14.5~44.3 wt% of Lignum Dalbergiae Odoriferae. Further, the process for preparing the composition comprises the following steps: extracting a mixture of Radix Salviae Miltiorrhizae and Radix Notoginseng with water, concentrating the extract, precipitating with ethanol and recovering the ethanol from the supernate to obtain the Radix Salviae Miltiorrhizae and Radix Notoginseng extract; extracting pulverized Radix Astragali with water, concentrating the extract, precipitating with ethanol and recovering the ethanol from the supernate to obtain the Radix Astragali extract; refluxing the Lignum Dalbergiae Odoriferae to obtain volatile oil of Lignum Dalbergiae Odoriferae; and mixing aforesaid extracts and volatile oil to obtain the composition.

As compared with the prior art represented by Guo et al., amended claim 2 is directed to a composition which quantitatively consists of four extracts made from crude drugs and borneol. The claimed extracts are defined in the claim by active ingredients. Although the composition of amended claim 2 is produced from the same raw materials of TCM as those disclosed in Guo et al., the extracts of the claimed invention are obtained by different processes, for example, the process described in Example 1. That is, the crude materials are extracted separately in the present application, which is different from Guo et al. This is important since it allows the Applicant to produce the

claimed composition to the exacting quantitative amounts of extracts and active ingredients recited. Further, note that Guo's teaching of 2.5~13.5 wt% of Radix Notoginseng hardly overlaps the claimed range of 10.0~85.0 wt%. Even more pronounced is Guo's teaching of 14.5~44.3 wt% of Lignum Dalbergiae Odoriferae as compared to the 1.0~15.0 wt% claimed.

It is well-known that TCMs, including those used in Guo et al. and the present application, are usually used in the form of crude drugs. Unfortunately, the active ingredients of the crude drugs may fluctuate due to different production areas. This may result in fluctuation of the effects of the drugs. Although many extraction processes have been disclosed in the prior art, the active ingredients of the extracts are not clear. This is true for Guo et al. Thus, the effects of the extracts may fluctuate like the crude drugs from different production areas. In order to solve this problem, the applicant selected the claimed active ingredients as the quantitative index of the extracts and developed a standard composition with each ingredient quantitated. This means that the composition of the claimed invention can be produced more reliably and can take effect more stably.

Inasmuch as Guo et al. fails to disclose or suggest the claimed composition, one skilled in the art can not produce the composition of amended claim 2 based on the teachings of Guo et al. Thus, amended claim 2 cannot be rendered obvious by Guo et al.

The remaining claims depend from claim 2 and are thus also inventive. Note also that claim 10 has been amended to recite a method for treating cardiovascular and cerebrovascular diseases, comprising administering the composition of the present

application to the subject. Since the composition is novel and inventive, the method of using the composition for treating diseases is novel and inventive.

In view of the foregoing, reconsideration and withdrawal of the above rejections are respectfully requested.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: March 10, 2008

By: _____
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